



MITCHELL E. DANIELS, JR., *Governor*

JAMAL L. SMITH, *Executive Director*

ICRC No.: EMha11100684

[REDACTED],
Complainant,

vs.

TIPTON COUNTY AUDITORS OFFICE,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(b)

On October 24, 2011 [REDACTED] ("Complainant") filed a complaint with the Commission against Tipton County Auditor's Office ("Respondent") alleging discrimination on the basis of disability, in violation of the Indiana Civil Rights Law (IC 22-9, et seq) and [REDACTED]. Accordingly, the Commission has jurisdiction over the parties and the subject matter of this complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was terminated due to her disability. In order to prevail, Complainant must show that: (1) she had an impairment that could be perceived as limiting a major life activity; (2) she suffered an adverse employment action; (3) she was meeting Respondent's legitimate business expectations; and (4) similarly-situated employees without impairment were treated more favorably.

It will be presumed for purposes of this analysis that Complainant did have a disability as that term is defined by the Indiana Civil Rights Law. It is clear that Complainant suffered an adverse employment action when her employment was terminated on August 26, 2011. No evidence has been provided to show that Complainant was not meeting her employer's legitimate business expectations, since there is no evidence of written or verbal reprimands for job performance issues. In regards to Complainant's attendance, she and other employees were allowed ten (10) sick days per year and ten (10) vacation days per year. In addition, Complainant was allowed to use "compensatory time" she had earned prior to her dismissal. There is no evidence that she had exhausted all paid leave time at the time of her termination.

The record indicates Complainant was employed with Respondent as [REDACTED], and her immediate supervisor was [REDACTED]. The record indicates Inman was aware Complainant had accumulated compensatory time. Evidence indicates Complainant



advised Inman that she was getting close to using up her paid time off and made a request to ask the County Commissioners if she would be allowed to utilize time from the "sick day bank", a benefit offered to all County employees. Evidence indicates the request was denied, and Complainant was advised by Inman to file documents for Family Medical Leave; however, before she could file the required FML documents, her employment was terminated. Based upon the above-findings, probable cause exists to believe that an unlawful discriminatory practice may have occurred.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. IC 22-9-1-18, 910 IAC 1-3-5 The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election or the Commission's Administrative Law Judge will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

August 6, 2012
Date

Joshua S. Brewster, Esq.,
Deputy Director
Indiana Civil Rights Commission